

REMARKS

In response to the Office Action dated November 15, 2007, claims 1 and 5 have been amended. No new matter has been added. Reexamination and reconsideration of the claims as requested is respectfully requested.

In paragraph 6 on page 3 of the Office Action, claims 1-3, 5-12 and 18-22 are rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which is regarded as the invention. The Applicants respectfully traverse this rejection, but have amended the application to overcome the objections. Claims 1 and 5 have been amended. It is believed that all claims comply with 35 U.S.C. § 112.

In paragraph 10 on page 3 of the Office Action, claims 1, 3, 5-10, 18 and 19 are rejected under 35 U.S.C. §102 (b) as being anticipated by McAuley (US 5,568,990). The Applicant respectfully traverses this rejection, but has amended the application to overcome the objections.

The claims as now submitted are submitted to be patentably distinct over the McAuley (US 5,568,990) reference.

The applicator disclosed in McAuley comprises a housing 12 having an internal chamber 25 in surrounding relation with the aperture 24 (col. 3, l. 13-15). The internal chamber is defined by top wall 20 and side wall 22, the top wall having an aperture 24 for dispensing the liquid (col. 3, l. 1-2). From this passage and from the drawings, particularly Fig. 1, it is apparent that the internal chamber is not a separate chamber. See also Fig. 2 and reference to item 30, lines 25-30. It is clear that the chamber is always in direct fluid connection with the rest of the container.

In this respect, the comparison of the Examiner falls short in the passage "...having an inflow opening (30) communicating with the reservoir, which inflow opening (30) is closed in the condition of rest". To the contrary, the inflow opening 30 is permanently open. It is the aperture 24 which is closed in the condition of rest. Since inflow opening stays opened, the chamber 25 is an integral part of the container.

In contrast thereto, according to the invention, there is at least one receiving chamber between the reservoir and the sponge-like body, having an inflow opening communicating with the reservoir, which inflow opening is closed in the condition of the rest of the device and can be opened at a movement of the sponge-like body with respect to a plane with which this body is contacted, while from the receiving chamber the substance is absorbed by the sponge-like body with delay.

From such a receiving chamber which is closed in a condition of rest, such as is depicted with reference numerals 23 and 23' in Figs. 2 and 1, the substance can leak out with a certain delay and, when released from the container, is not immediately immersed in the sponge 6. This offers the benefits of a longer and more gradual absorption of the liquid in the applicator sponge 6.

Such a "separate" receiving chamber is not disclosed or suggested in McAuley. In contrast, McAuley only teaches a self-closing stopper which is actuated by pushing the sponge. If pushed, liquid is directly immersed on the spreader member 18 as described in col. 4, line 41.

Regarding Villahoz (paragraph 11 on page 4 of the Office Action), the disclosed dosing system is of an entirely different nature. In particular, referring to Fig. 4, it is noted that the receiving chamber is apparently deemed to be formed by walls 17 for "trapping"

(col. 2, l. 33) of bellowed valve sealing 18. The housing is provided for pressing the bellowed valve 18 against lower orifice 15 (see Figs. 3, 4 and 5).

Although it has been asserted that the walls 17 thus form a receiving chamber, it is not disclosed that inflow opening 14 is closed in a condition of rest. Col. 2 only states that the hemispherical outer sealing end 9 "normally causes the valve sealing element 18 to seal the lower orifice of the valve to maintain the valve closed" (col. 2, l. 39-40). In contrast, the invention, in addition, requires that the receiving chamber be in a permanent open communication with the sponge like body via outflow opening.

This is not the case in Villahoz, wherein the outflow opening 15 is closed in a condition of rest, to form a sealing for the hemispherical part 9. Accordingly, it is held that Villahoz is not relevant to novelty.

The invention, in contrast, is concerned with dispensing a liquid with delay to the sponge-like body, instead of instantly soaking the sponge after a pressing action, as does Villahoz. The solution, that is, to provide a receiving chamber having specifically designed inflow and outflow openings, in conjunction with aeration of the receiving chamber, as required by the present claim, is nowhere suggested or taught by prior art, including the Schwartzman publication (US3135988) referenced by the Examiner in paragraph 18. Accordingly, it is submitted that the claim is patentable.

In paragraph 13 on page 6 of the Office Action, claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over McAuley; in paragraph 14 on page 6, claims 12-13 are rejected as being unpatentable over McAuley in view of Villahoz (US 6,478,497); in paragraph 15 on page 6, claims 20-22 are rejected as being unpatentable over McAuley; in paragraph 16 on page 7, claim 2 is rejected as being unpatentable over

Villahoz; and in paragraph 17 on page 7, claims 20-22 are rejected as being unpatentable over Villahoz. The Applicant respectfully traverses this rejection, but has amended the application to overcome the objections.

CONCLUSION

In view of the amendments and reasons provided above, it is believed that all pending claims are in condition for allowance. The amendments clarify the patentable invention without adding new subject matter. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

Applicant has requested a suspension of this application in order to allow for an interview with the examiner. Because applicant's attorney is not resident in the DC area and because the examiner may not always be available in the Office, the suspension will allow applicant's attorney to schedule such an interview convenient to both. The examiner is therefore requested to not act on this case until the interview has been concluded.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Michael B. Lasky at (612) 436-3152.

Respectfully submitted,

Altera Law Group, LLC
Customer No. 22865

Date: March 17, 2008

By: _____/Michael Lasky/_____
Michael B. Lasky
Reg. No. 29,555
MBL/mej